

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

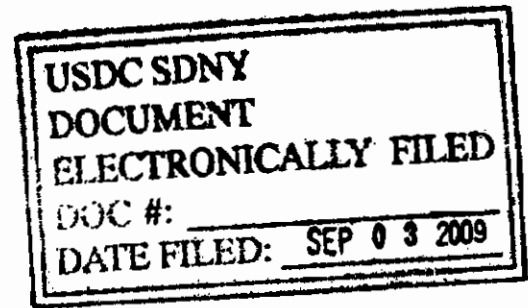
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LOUIS MARTIR AND LILIANA MARTIR,

Plaintiffs,

-v-

THE CITY OF NEW YORK, THE NEW
YORK CITY HEALTH AND HOSPITALS
CORPORATION, JOSE R. SANCHEZ,
FRANK J. CIRILLO and ALAN D. AVILES,

Defendants.
-----X



No. 07 Civ. 7922 (LTS)(KNF)

ORDER ADOPTING REPORT AND RECOMMENDATION¹

Plaintiffs brought the above-captioned action asserting a First Amendment retaliation claim under 42 U.S.C. § 1983 against Defendants. Defendants moved for summary judgment pursuant to Federal Rule of Civil Procedure 56, see docket entry no. 27, and also moved the Court for a preliminary injunction, see docket entry no. 39, enjoining Plaintiffs from disclosing, copying or transmitting certain types of documents, requiring Plaintiffs to return any such documents, disclose how they obtained such documents, specifically identify any such documents in Plaintiffs' possession, to account for each and any person to whom the contents of such documents had been disclosed and restraining Plaintiffs from discussing any information obtained through the possession of such documents with any third-party. Defendants' motion for

¹ *The ECF system provides notice of the entry of this Order to each party that has both entered an appearance in this case and registered with ECF. The ECF-registered attorneys are responsible for providing notice to any co-counsel whose e-mail addresses are not reflected on the ECF docket for this case, and Plaintiff's counsel, upon receiving notice of this Order, is hereby ordered to fax or otherwise deliver promptly a copy to all parties who are not represented by ECF-registered counsel. A certificate of such further service shall be filed within 5 days from the date hereof. Counsel who have not registered for ECF are ordered to register immediately as filing users in accordance with the Procedures for Electronic Case Filing.*

a preliminary injunction was referred to Magistrate Judge Fox. In an Opinion and Order dated July 23, 2009, (the “Opinion”) the Court granted summary judgment in Defendants’ favor, see docket entry no. 56. Because the unresolved litigation revolving around Defendants’ preliminary injunction motion had no bearing on the Court’s dismissal of Plaintiffs’ claims, the Court directed the Clerk of Court to enter judgment pursuant to Federal Rule of Civil Procedure 54(b). On July 29, 2009, Judge Fox issued a Report and Recommendation (the “Report”), recommending that Defendants’ motion for a preliminary injunction be denied, see docket entry no. 58, because Defendants had failed to make an adequate showing of irreparable harm and for the further reasons detailed in the Report. The Court has not received any objections to the Report.

Additional factual and procedural background are described in detail in both the Report and the Opinion, familiarity with which is presumed.


In reviewing a Report and Recommendation, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A § 636(b)(1) (West 2006). Where the complaining party makes no timely objections to the Report, the Court will review the Report strictly for clear error. See Johnson v. New York University School of Education, No. 00 Civ. 8117, 2003 WL 21433443 at *1 (S.D.N.Y. Jun.16, 2003); see also Bryant v. New York State Dep’t of Corr. Servs., 146 F. Supp. 2d 422, 424-45 (S.D.N.Y. 2001) (court may accept portions of the report to which no objections have been made if it is “not facially erroneous”).

The Court has not received any objections to the Report from any party in this action. Therefore, the Court applies the clear error standard of review.

The Court has reviewed thoroughly Judge Fox's comprehensive and well-reasoned Report and finds no clear error. Accordingly, the Court adopts Judge Fox's Report in its entirety. For the reasons stated in the Report, Defendants' motion is denied. This Order resolves docket entry no. 39. The Clerk of Court is respectfully requested to close this case.

SO ORDERED.

Dated: New York, New York
September 3, 2009



LAURA TAYLOR SWAIN
United States District Judge